

## REMARKS

Claims 1-32 are pending. Claims 33-37 have been added. Claims 1-32 remain in the case for reconsideration. Reconsideration is requested. No new subject matter has been added.

### *Claim Rejections – 35 U.S.C. § 102*

Claims 1-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Ho (US 6,452,922). The Examiner disagreed with Applicant's previous reasoning why Ho does not suggest the claims in the present invention. Specifically, the Examiner states that Ho discloses the feature of redirecting an already established VoIP call over a PSTN connection if the QoS of the call is below the desired threshold using a loop back path for providing a mid-call fall back scheme. The examiner cites Ho col. 2, lines 41-46, col. 3, lines 3-45 for suggesting the claimed invention.

Claim 1 has been amended and states the following:

A method for conducting call fallback in a gateway, comprising:

- receiving an incoming call;
- establishing a Voice over IP (VoIP) call over a VoIP network;
- generating audio packets from the incoming call and sending the audio packets over the VoIP call;
- monitoring quality of service on the VoIP network during the VoIP call;
- setting up a fallback call over a circuit switched network during the VoIP call when the monitored quality of service of the VoIP network degrades;
- cross connecting the incoming call to both the fallback call and the VoIP call during midcall of the VoIP call after the fallback call has been setup and sending same audio data over both fallback call and the VoIP call at the same time; and
- redirecting the incoming call from the currently established VoIP call to the fallback call.

FIGS. 1-9 and the specification at page 4 lines 25-28 clearly explain that for some period during a voice switchover from the IP network call connection to the PSTN call connection the same audio signals are sent over both call connections at the same time. This fallback scheme provides seamless PSTN fallback without interrupting a call in-progress. Page 5, lines 4-8.

Ho does not teach establishing an IP call and during the IP call establishing a second fallback call and redirecting the IP call over the circuit switched connection previously established during the IP call. Applicant's position is supported by the language in Ho cited by the Examiner.

Ho at col. 2, lines 41-46 - col. 3, lines 3-45 states the following:

"A network interface card 104 . . . will cause a call directed to the card to be redirected to a different network 106 if the QoS for the call will be below the desired threshold based on the destination of the call." (emphasis added) Col. 2, lines 41-46.

"The IP network card 104 uses the destination of the call to be connected to consult statistics collected by a network monitor 122 that runs on the card. If the QoS that the IP network 108 has provided recently for test packets to the destination of the call to be routed is less than the desired QoS threshold, then the call is returned to the call processor 100 to be connected through another network 106. Otherwise the call is connected through the IP network 108." (emphasis added) Col. 2, line 46-line 60.

"If the call cannot be connected through the IP network 108 because of a low QoS, the IP network interface 304 will connect the call the call processor 100 through the loop back path . (emphasis added).. " Col. 3, lines 7-line 11.

In each of these descriptions of the Ho call fallback process, the call is never established on both the IP network and the PSTN network at the same time. Ho doesn't suggest conducting the call signaling or sending the audio signals over the two different networks at the same time. Ho simply suggests checking out the QoS for a potential IP call and switching over to a PSTN call if the QoS for the intended IP call is below a QoS threshold.

However, to further clarify the invention, claims 1 and 12 have been amended to specify that the same audio signals are sent over both the IP network and the fallback network at the same time. This clearly distinguishes over any system that may initiate call signaling for a fallback call and then completely redirects the audio data for the call over one but not both of the network connections.

There is no suggestion in Ho of sending the same audio signals over a PSTN network and a IP network at the same time during a call switching condition. Therefore, the system in

Ho would cause interruptions in a currently established IP call when switching from the IP call to the PSTN call.

Ho also does not suggest any of the specific switch over techniques or cross-switch structure specified in the dependant claims. For example, the Examiner has not cited any structure in Ho that suggests including signaling that the new VoIP call is associated with the fallback call by identifying the fallback call in headers of the audio packets sent over the new VoIP call as specified in claim 3.

Ho also does not suggest cross connecting the incoming call for an ISDN fallback call by continuing generation of audio packets from the incoming call and rerouting the audio packets over the outgoing ISDN channel as specified in claim 4.

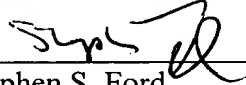
Ho also does not suggest detecting when the quality of service for the VoIP call has degraded below a predetermined level; identifying any already established ISDN call with a same destination gateway as the VoIP call; determining if the identified ISDN call has bandwidth capacity for carrying the VoIP call; and using the ISDN call identified with sufficient bandwidth capacity as the fallback call for the VoIP call as specified in claim 5.

Limitations in other dependant claims are also not suggested by Ho.

**CONCLUSION**

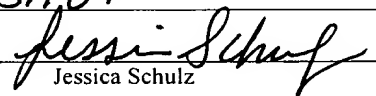
For the foregoing reasons, reconsideration and allowance of claims 1-37 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

  
\_\_\_\_\_  
Stephen S. Ford  
Reg. No. 35,139

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
Commissioner for Patents, P.O. Box 1450,  
Alexandria, VA 22313-1450 on:

Date: 3/31/04

Signature:   
\_\_\_\_\_  
Jessica Schulz

MARGER JOHNSON & McCOLLOM, P.C.  
1030 SW Morrison Street  
Portland, OR 97205  
(503) 222-3613  
Customer No. 20575